IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 88 OF 2007

IN

F.C.A.(ST.) NO. 8906 OF 2007

WITH

CIVIL APPLICATION NO. 89 OF 2007

IN

F.C.A.(ST.) NO. 8910 OF 2007

Milan Laxman Tandel. .. Applicant.

vs.

Laxman Keshav Tandel. .. Respondent .

Ms. Geeta Mulekar for Applicant.

..

Coram: J.N. PATEL &,

A.A. SAYED, JJ.

Date: 25TH APRIL, 2007.

P.C.

. The learned counsel for the applicant has drawn the attention of this Court to the amendment to the Hindu Marriage Act, 1955 which has been incorporated by the Marriage Laws (Amendment) Act, 2003 and notified in the official gazette on 23.12.2003 wherein it is

provided under section 5, that in section 28 of the Hindu Marriage Act, in sub-section (4), for the words "period of thirty days", the words "period of ninety days" shall be substituted which provides for appeals from decrees and orders made by the Courts under any provisions of the Hindu Marriage Act, 1955. In view of this, the limitation provided under the special statute which would govern the field rather than provided under the Family Courts Act under Section 19, Chapter V which provides for the period of limitation in respect of judgments and orders passed by the Family Court on the various subjects which the Family Court is competent to pass is in the nature of general provision and, therefore, the period of limitation provided under the Special Act would override the period of limitation provided under the Family Courts Act, 1984 and, therefore, as the appeals have been filed within a period of 90 days, they are to be held to be within limitation and, therefore, the objection does not survive and the applications for condonation of delay in filing the appeals are unwarranted as the appeals are filed within 90 days which is the period provided under section 28 of the Hindu Marriage Act, 1955. The office is directed to register the appeals and list them for admission. S.O. to 3.5.2007.

(J.N. Patel, J.)

(A.A. Sayed, J.)